

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SANDRO BALZORA,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 24-CV-0522
	:	
OFFICER KAILA BALATGEK, <i>et al.</i>,	:	
Defendants.	:	

ORDER

AND NOW, this 13th day of February, 2024, upon consideration of Plaintiff Sandro Balzora's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Sandro Balzora, #01920074389, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Lehigh County Jail or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Balzora's inmate account; or (b) the average monthly balance in Balzora's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Balzora's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Balzora's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of Lehigh County Jail.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, Balzora's claims against the City of Allentown Police Department are **DISMISSED WITH PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

6. The Clerk of Court is **DIRECTED** to **TERMINATE** the City of Allentown Police Department as a Defendant in this case.

7. For the reasons stated in the Court's Memorandum, the following claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii): (1) all Fourth Amendment claims related to Balzora's arrest and detention, other than Fourth Amendment excessive force claims; and (2) all claims of deliberate indifference to his medical needs.

8. The Clerk of Court is **DIRECTED** to **SEND** Balzora a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.

9. Balzora is given thirty (30) days to file an amended complaint in the event he can allege additional facts to state plausible Fourth Amendment claims related to his arrest and detention (other than excessive force claims); and/or claims of deliberate indifference to his medical needs. If Balzora files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Balzora's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. This means that if Balzora files an amended complaint, he must include allegations related to his excessive

force claims against Officer Kaila Balatgek and Officer Tanner, which have not been dismissed, if he seeks to proceed on those claims. Claims that are not included in the amended complaint will not be considered part of this case because the amended complaint becomes the pleading upon which the case will proceed. Balzora may not reassert a claim that has already been dismissed with prejudice, or rename a party that has already been terminated from this case. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Balzora's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 24-0522. When drafting his amended complaint, Balzora should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

10. If Balzora does not file an amended complaint, the Court will direct service of his initial Complaint on Defendants Officer Kaila Balatgek and Officer Tanner, so that Balzora may proceed on the excessive force claims against them. Balzora may also notify the Court that he seeks to proceed only on his excessive force claims at this time rather than file an amended complaint. If he files such a notice, Balzora is reminded to include the case number for this case, 24-0522.

11. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

BY THE COURT:

/s/ Wendy Beetlestone

WENDY BEETLESTONE, J.